

EXHIBIT “A”

CHRISTIE PABARUE AND YOUNG

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HEATHER TERESHKO
215.587.1616
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June 5, 2014

Via Email and First Class Mail

Leon Aussprung, MD, JD, LL.M
James E. Hockenberry, Esq.
Law Office of Leon Aussprung, MD, LLC
One Commerce Square
2005 Market Street, Suite 2300
Philadelphia, PA 19103

Re: Estate of Abraham Strimber v. AMH, et al
Our File No.: 850-103

Dear Counsel:

Enclosed please find Defendant, Abington Memorial Hospital's, Responses to Plaintiffs' Supplemental Interrogatories and Request for Production of Documents (Set IV) regarding Plaintiffs' EMTALA claim and Responses to Plaintiffs' Request for Admissions Set II.

If you have any questions concerning this correspondence, please contact me directly.

Very truly yours,



HEATHER TERESHKO

HAT/al

Enclosure

cc: Via email and first class mail
John P. Shusted, Esquire
Donald N. Camhi, Esquire

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARY B. FREEDMAN, ESQUIRE,
Administrator of the ESTATE OF ABRAHAM
STRIMBER, Deceased
and
BRACHA STRIMBER

No. 2:13-cv-03145

v.

STEVEN FISHER, M.D.,
MARGO TURNER, M.D.,
KRISTINA A. MARTINEZ, CRNP,
MANOJ R. MUTTREJA, M.D.,
ABINGTON MEDICAL SPECIALISTS
ASSOCIATION, P.C., D/B/A ABINGTON
MEDICAL SPECIALISTS AND D/B/A AMS
CARDIOLOGY,
ABINGTON EMERGENCY PHYSICIAN
ASSOCIATES AND
ABINGTON MEMORIAL HOSPITAL

DEFENDANT, ABINGTON MEMORIAL HOSPITAL'S,
RESPONSES TO PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS (SET IV)
REGARDING PLAINTIFF'S EMTALA CLAIM

1. Are you aware of any written or electronic policies, procedures, protocols and/or guidelines regarding the care and treatment of individuals who present to the Abington Memorial Hospital Emergency Department with a complaint of "chest pain?" **PLEASE CONSIDER THIS A REQUEST TO PRODUCE ANY SUCH POLICIES, PROCEDURES, PROTOCOLS AND/OR GUIDELINES.**

RESPONSE: Objection. This interrogatory is objected to as vague with respect to the time and scope, and with reference to the "you" within the context of these

interrogatories. Subject to and without waiver of the foregoing objection, Defendant Abington Memorial Hospital, on behalf of itself only, directs plaintiff's attention to the policy titled, "Myocardial Infarction – Primary Percutaneous Coronary Intervention for Acute ST Segment Elevation/New Left Bundle Branch Block Myocardial Infarction" produced in response to Plaintiff's First Supplemental Request for Production of Documents. Also, Plaintiff is directed to the policy titled "Protocol Orders" and the protocol order set which addressed patient complaints of chest pain, which did not apply to Mr. Strimber because he specifically denied chest pain to any of the healthcare providers who evaluated and treated him.

2. Are you aware of any written or electronic policies, procedures, protocols, and/or guidelines regarding the care and treatment of individuals who present to the Abington Memorial Hospital Emergency Department with a complaint of "abdominal pain" and/or "epigastric pain?" PLEASE CONSIDER THIS A REQUEST TO PRODUCE ANY SUCH POLICIES, PROCEDURES, PROTOCOLS AND/OR GUIDELINES.

RESPONSE: Objection. This interrogatory is objected to as vague with respect to the time and scope, and with reference to the "you" within the context of these interrogatories. Subject to and without waiver of the foregoing objection on behalf of Abington Memorial Hospital only, there are no written policies, procedures and/or guidelines regarding the care and treatment of individuals who present to the Abington Memorial Hospital Emergency Trauma Center with a complaint of "epigastric pain." By way of further response, Plaintiff is directed to the policy titled "Protocol Orders" and the protocol order set for abdominal pain which was

previously produced, but which did not apply to Mr. Strimber since the patient was evaluated immediately upon presentation to the Emergency Trauma Center.

3. Are you aware of any written or electronic policies, procedures, protocols, and/or guidelines regarding the Emergency Medical Treatment and Act Labor Act, 42 U.S.C. §1395dd, regarding individuals who present to the Abington Memorial Hospital Emergency Department?

PLEASE CONSIDER THIS A REQUEST TO PRODUCE ANY SUCH POLICIES, PROCEDURES, PROTOCOLS AND/OR GUIDELINES.

RESPONSE: Objection. This interrogatory is objected to as vague with respect to the time and scope, and with reference to the "you" within the context of these interrogatories. Subject to and without waiver of the foregoing objection, a copy of Abington Memorial Hospital's EMTALA policy which was in effect on February 22, 2012 is attached to these responses.

4. Please disclose all, whether written or electronic, of the Abington Memorial Hospital Emergency Department patient sign-in sheet(s) and/or triage log(s)/sheet(s) for all patients between 2/8/2012 and 3/7/2012 **(all names and specific identifying information may be redacted)**.

RESPONSE: Objection. This interrogatory is objected to as overly broad and unreasonably burdensome. This interrogatory is further objected to as seeking information which is not material or relevant, and is not reasonably calculated to lead to the discovery of material or relevant information or evidence which would be admissible at the time of trial.

5. Please disclose all of the complete Abington Memorial Hospital Emergency Department records and/or medical records for any and all persons who presented with a complaint of "chest pain," including, but not limited to, as noted in the registration system ("STAR System") and/or in the Emergency Department medical record and/or the triage log sheet and/or the patient sign-in sheet, in the Abington Memorial Hospital Emergency Department between 2/8/2012 and 3/7/2012. (All names and specific identifying information may be redacted)."

RESPONSE: Objection. This interrogatory is objected to as overly broad and unreasonably burdensome. This interrogatory is further objected to as seeking information which is not material or relevant, and is not reasonably calculated to lead to the discovery of material or relevant information or evidence which would be admissible at the time of trial. Further, this interrogatory and request to produce is objected to as seeking information which is privileged and protected under Patient Privacy Laws and the Health Insurance Portability and Accountability Act of 1996. Defendant Abington Memorial Hospital further objects to this interrogatory because Mr. Strimber denied chest pain to all of the healthcare providers who evaluated and treated him at the Abington Memorial Hospital Emergency Trauma Center. See attached deposition testimony from Dr. Turner, Dr. Muttreja, Dr. Fisher, Nurse Lynn Stebulis, and Nurse Lori Ischinger.

6. Was a determination ever made that Abraham Strimber had an “emergency medical condition” on 2/22/2012 as defined by 42 U.S.C. §1395(e)(1)? If so, at what specific time on 2/22/2012 (hour and minute) as such determination made and by whom?

RESPONSE: Objection. This interrogatory is objected to as vague as phrased. This interrogatory is further objected to as seeking information which is within the knowledge of one or more co-defendants and involves their mental processes about which Defendant Abington Memorial Hospital does not possess information beyond the medical records and sworn deposition testimony. This interrogatory is also objected to as seeking information which calls for a legal conclusion and/or medical expert opinion with regard to interpretation of statutory language. Subject to and without waiver of the foregoing objection, after reasonable investigation, answering defendant is without sufficient knowledge or information to provide a response to this interrogatory as posed, but does acknowledge that Mr. Strimber arrived at Abington Memorial Hospital’s Emergency Trauma Center with complaint and was evaluated and provided appropriate care in response to those complaints.

7. What was the determination as to whether or not Abraham Strimber had an “emergency medical condition” on 2/22/2012 as defined by 42 U.S.C. §1395(e)(1)?

RESPONSE: See response to Interrogatory number 6, incorporated by reference.

8. If your answer to the foregoing interrogatory is in the affirmative, state what, if any, further medical examination and/or treatment was done “to stabilize” Abraham Strimber on 2/22/2012 as defined by 42 U.S.C. §1395dd (e)(3)(A) and (B).

RESPONSE: See response to Interrogatory number 6, incorporated by reference. By way of further response, Plaintiff is directed to the records of Abington Memorial Hospital provided to Plaintiff during discovery as well as the sworn deposition testimony of all deponents including but not limited to Dr. Fisher, Dr. Turner, Dr. Muttreja, Nurse Lynn Stebulis, and Nurse Lori Ischinger.

9. Who performed the “medical screening examination” required by 42 U.S.C. §1395dd(a) with regard to Abraham Strimber on 2/22/2012 at Abington Memorial Hospital Emergency Department.

RESPONSE: This interrogatory is objected to as vague as phrased. This interrogatory is further objected to as seeking information which calls for a legal conclusion and/or medical expert opinion with regard to interpretation of statutory language. Subject to and without waiver of the foregoing objections, the medical records demonstrate that Mr. Strimber was evaluated and treated by multiple physicians during the course of his treatment at Abington Memorial Hospital, including but not limited to the Emergency Trauma Center nurses, Dr. Steven Fisher, Dr. Margo Turner, and Dr. Manoj Muttreja. See medical records, and relevant portions of the deposition testimony attached.

10. Who completed the “medical screening examination” required by 42 U.S.C. §1395dd(a) with regard to Abraham Strimber on 2/22/2012 at Abington Memorial Hospital Emergency Department.

RESPONSE: See response to Interrogatory Number 9 incorporated herein by reference.

11. At what time was Abraham Strimber no longer a patient in the Abington Memorial Hospital Emergency Department on 2/22/2012?

RESPONSE: After reasonable investigation, answering defendant is without sufficient knowledge or information to provide a specific response to this interrogatory. By way of further response, the medical records document an order by Dr. Steven Fisher at 14:27 on February 22, 2012 placing the patient in observation status and he was transferred to the observation unit shortly thereafter.

12. On 2/22/2012 was Abington Memorial Hospital a "participating hospital" as defined by 42 U.S.C. §1395(e)(2)?

RESPONSE: Yes.

13. State the name, title, and position held of the individual at Abington Memorial Hospital with the most knowledge and information concerning Abington Memorial Hospital's compliance with the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. §1395dd on 2/22/2012.

RESPONSE: Objection. This interrogatory is objected to as vague and overly broad, and not limited by scope.

CHRISTIE, PABARUE & YOUNG
A Professional Corporation

BY:



JAMES A. YOUNG, ESQ.

HEATHER A. TERESHKO, ESQ.

Attorney for Defendants, Margo Turner, M.D. and
Abington Memorial Hospital

Dated:

6/5/14



Abington Health

Department Manual: Nursing		Policy Number: 14.53
Title: Emergency Trauma Center/ Emergency Department Plan for Compliance with EMTALA	Category: Patient Care	Original Date: 2/2011
Policy Owner: Nurse Director Professional Practice	Keywords: EMTALA	Last Review Date: 2/2011
Referenced With: Administrative Policy #5.09 – Interfacility Patient Transfers	Review Cycle: yearly	Last Revision Date:

PURPOSE:

The purpose of this policy is to set forth the plan of action for complying with the 1986 Emergency Medical Treatment and Active Labor Act (EMTALA) both in receiving and sending patients between healthcare facilities. This policy provides a chain of command and immediate support to the staff and physicians at Abington Health (AH) to seek guidance related to EMTALA.

OBJECTIVES:

1. To assure that patients presenting for treatment are provided with a medical screening exam (MSE) to exclude the presence of an emergency medical condition (EMC).
2. To assure that patients identified as having an EMC are provided with appropriate medical stabilization and treatment.
3. To provide for appropriate safe transfer of patients, when medically necessary or by request, to other facilities.
4. To assure that patients being transferred to AH are accepted using appropriate procedures.
5. To assure that patients are being transferred to other facilities with a process that is consistent with EMTALA guidelines.
6. To outline a procedure for the AH employees and professional staff to report potential EMTALA violations.

PROCEDURE:

- A. Patients Arriving to the Hospital
 - a. Persons presenting to an area within the hospital's main campus other than the dedicated ETC/ ED will receive a MSE, if they request or have a request made on their behalf for examination or treatment for what may be an EMC. When there is no verbal request, a request for an MSE will be considered to exist if a prudent layperson observer would conclude, based on the person's appearance and/or behavior, that the person needs emergency examination or treatment. These persons shall be escorted/ transported to the ETC/ ED for MSE when appropriate.
- B. Patients Arriving to the Emergency Trauma Center (ETC) or Emergency Department (ED)
 - a. All patients requesting services in the ETC/ ED are provided a MSE.
 - b. Patients presenting to the ETC/ ED are categorized based on the triage nurse's assessment. The initiation of treatment is prioritized by the severity level.
 - c. The MSE will be performed by the attending physician either alone or in conjunction with the Advanced Practice Professional (APP). APPs are supervised by the attending physician. When an emergency medical condition exists, appropriate stabilization and treatment will be rendered. In addition to the emergency physician's determination of an EMC, patients requiring a MSE also include:
 - i. Women in active labor

**Emergency Trauma Center Plan for Compliance with EMTALA
Policy and Procedure**

- ii. Patients with substance abuse complaints
 - iii. Patients with behavioral health complaints
 - iv. Other conditions as amended by government regulatory agencies.
- d. There will be no delay in the provision of the MSE while obtaining demographic or insurance information.
- e. For the convenience of patients, insurance information may be requested at the time of registration. However, requests for insurance information shall not be a source of delay in providing appropriate medical screening exams.
- C. Stabilization and Treatment
 - a. Pursuant to the ETC/ ED physician's determination, patients with emergency medical conditions are provided appropriate stabilization and treatment.
 - b. Patients whose conditions demand treatments that are not available at AH are stabilized within the existing capabilities of the hospital. Arrangements shall be made to safely transfer the patient to a facility capable of providing the medically necessary care.
- D. Transfer of Patients to Another Facility
 - a. Refer to Administrative Policy # 5.09 - Interfacility Patient Transfers
 - b. Patients other than involuntary commitments may refuse to be transferred and shall be counseled regarding the risks of refusal.
- E. Receipt of Transferred Patients
 - a. The hospital may receive patients being transferred from another facility.
 - b. Patients being transferred from another facility to a designated unit within the hospital should be referred to that unit as a direct admission.
 - c. The appropriate AH attending physician or designee is responsible for accepting transfers from other health care facilities to AH.
- F. Reporting Potential EMTALA Violations
 - a. Patients transferred to AH from another facility without prior authorization may represent potential EMTALA violations and should be reported.
 - b. Refusals by a facility (including AH) to accept a patient in transfer when the facility has the capacity and capability to care for the patient may represent a potential EMTALA violation and should be reported.
 - c. When a member of the AH staff suspects a potential violation of EMTALA, the event shall be reported to the appropriate Director/Designee. The staff member may use the corporate compliance hotline if they wish to remain anonymous.
 - d. The Director or his/her designee reviews the incident with the reporting staff member.
 - e. The report of any significant incident is forwarded to the AH Compliance Officer, Legal Services, Chief of Staff, Director of Patient Safety, Chief Operating Officer and the Senior Vice President of Patient Care Services.
 - f. The hospital will not take adverse action or retribution against a staff member for reporting an EMTALA violation.
 - g. A determination of the necessity to report potential EMTALA violations is coordinated by the Department of Patient Safety/Corporate Compliance.

COPY

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARY B. FREEDMAN, : NO.
ESQUIRE, Administrator : 2:13-cv-3145-CDJ
of the ESTATE OF :
ABRAHAM STRIMBER, :
deceased :
and :
BRACHA STRIMBER, :

Plaintiffs, :

v. :

STEVEN FISHER, M.D., :
et al., :

Defendants. :

Thursday, April 10, 2014

Oral deposition of LORI
ISCHINGER, taken pursuant to notice, was
held at Abington Hospital, 1200 Old York
Road, Abington, Pennsylvania, commencing
at 10:10 a.m., on the above date, before
Amy M. Murphy, a Professional Court
Reporter and Notary Public there being
present.

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1 Q. Because they were kind of an
2 unusual --

3 A. Yes.

4 Q. Diet.

5 And again, it feels like a
6 conversation. Try not to talk when I'm
7 talking and I'll try to do the same. We
8 both fall into it.

9 A. Okay.

10 Q. You said you remembered he
11 was in distress, you said. What do you
12 remember about that?

13 A. I remember him being in a
14 lot of pain.

15 Q. Do you remember where his
16 pain was?

17 A. He told me it was abdominal.

18 Q. Do you remember anything
19 else -- and we're going to look at what
20 you wrote down in a moment, but do you
21 remember anything else from that
22 interaction other than he had some
23 unusual things he had eaten recently and
24 that he was in significant distress?

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1 Q. Could you list all the
2 clinical factors that went into that
3 determination of his ESI level that you
4 used?

5 A. The patient stated to me
6 that he felt like his abdomen was going
7 to explode, he had multiple complaints.
8 I can recall that he was in a lot of pain
9 and very uncomfortable at triage. So,
10 that would influence my decision making.

11 Q. Okay. In the HPI, that's
12 something that's written by the
13 physician; correct? SF is Dr. Fisher?

14 A. Yes.

15 Q. There's a description that
16 pain began in his epigastrium and then
17 slammed up into his jaw. Did you ever
18 get any kind of description as the pain
19 moving up his body?

20 A. I can only tell you what I
21 wrote in my assessment. I don't recall.
22 I mean, I wrote that he had complaint,
23 legs vibrating and he felt like his
24 abdomen was going to explode, and he

1 specifically denied chest pain to me.

2 Q. But he did have, as you
3 describe, epigastric pain?

4 MS. TERESHKO: She didn't
5 use the word epigastric.

6 BY MR. AUSSPRUNG:

7 Q. Where was the location of
8 Mr. Strimber's pain based upon everything
9 you know and the medical record that you
10 documented?

11 MR. GOEBEL: At the time of
12 her assessment?

13 MR. AUSSPRUNG: Correct.

14 THE WITNESS: In his
15 abdomen.

16 BY MR. AUSSPRUNG:

17 Q. Okay. That's a fairly
18 diffuse area. Can you be more specific?

19 A. I can't be more specific
20 other than what I wrote, that it was in
21 his abdomen and that he said it was not
22 in his chest.

23 Q. Do you have any knowledge or
24 information as to whether or not the pain

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 GARY B. FREEDMAN, ESQUIRE, :
4 Administrator of the ESTATE: :
5 OF ABRAHAM STRIMBER, :
6 deceased. :
7

8 and :
9

10 BRACHA STRIMBER :
11

12 Plaintiffs, :
13

14 :No. 2:13-cv-3145-CDJ

15 vs. :
16

17 STEVEN FISHER, ET AL., :
18

19 Defendant . :
20

21
22 Monday, March 31, 2014
23

24 Oral deposition of LYNNE STEBULIS, taken
25 at Abington Hospital, 1200 Old York Road, Rorer
Conference Room 4, Abington, Pennsylvania,
commencing at 10:14 a.m., before Theresa F.
Franco, a Court Reporter and Notary Public.

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28 1801 Market Street, Suite 1800
29 Philadelphia, PA 19103

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1 LYNNE STEBULIS

2 A. Yes.

3 Q. -- there's a heading that says,
4 Complaint; what does that say?

5 A. Chest pain.

6 Q. And immediately under the heading
7 Complaint, it says Assessment, true?

8 A. Correct.

9 Q. What does it say about chest pain
10 under the heading of Assessment?

11 A. "Patient denies chest pain."

12 Q. Do you have experience, by the way,
13 do you do triage occasionally?

14 A. Occasionally.

15 Q. Are there times when patients
16 complain of triage -- I'm sorry, complain of
17 chest pain at triage, and then a few minutes
18 later when they're seen, they deny chest pain?

19 A. Yes.

20 Q. That assessment, "denies chest
21 pain," is that actually written by the triage
22 nurse?

23 A. Yes.

24 Q. And is it written -- according to
25 the timing of these notes, it's actually

1 LYNNE STEBULIS
2 written at the same time or immediately after a
3 complaint of chest pain, right?

4 A. Yes.

5 Q. Is that triage assessment of
6 "denies chest pain" consistent with your
7 nursing assessment?

8 A. Yes.

9 Q. Can you go -- do you have your
10 nursing assessment in front of you?

11 A. Yes.

12 Q. Under the heading of
13 Respiratory/Chest, you wrote, "No complaint of
14 pain." And my question is, where did you get
15 the information in order for you to document
16 under the heading Respiratory/Chest, "no
17 complaint of pain?"

18 A. I asked.

19 Q. What type of question do you ask in
20 order to get that answer?

21 A. Do you have any chest pain.

22 Q. The timing of that note, by the
23 way, is what time, 12:08?

24 A. Yes.

25 Q. Had, up until 12:08, Mr. Strimber

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LYNNE STEBULIS

received any type of pain medicine from the
time of his arrival until 12:08?

A. No.

Q. Underneath the heading of
Respiratory/Chest, there's a block that's
labeled Cardiovascular, true?

A. Yes.

Q. What did you write -- what are the
first words after the heading of
Cardiovascular?

A. "Patient denies chest pain."

Q. Was that written by you at 12:08?

A. Yes.

Q. And in order for you to write the
words "Patient denies chest pain," what do you
need to ask the patient?

A. Do you have any pain in your chest?
Do you have chest pain?

Q. And you documented that he denied
chest pain?

A. Correct.

Q. By the way, in addition to the
documentation, do you have a memory of him
denying chest pain?

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1 LYNNE STEBULIS

2 they get seen.

3 MR. CAMHI: I don't have any other
4 questions.

5 - - -

6 EXAMINATION

7 - - -

8 BY MR. AUSSPRUNG:

9 Q. Did you have an understanding, you
10 took care of Mr. Strimber, that he said he had
11 chest pain because he thought he would be seen
12 quicker?

13 MS. TERESHKO: Did he say that to
14 her?

15 MR. AUSSPRUNG: Yeah.

16 BY MR. AUSSPRUNG:

17 Q. Is that what you -- you had that
18 record. You saw all the complaints in triage
19 when you cared for him, right?

20 A. I saw his triage assessment, yes.

21 Q. And you asked him whether he, in
22 fact, had the complaint of chest pain, correct?

23 A. Correct.

24 Q. And he denied it, right?

25 A. Correct.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -
GARY B. FREEDMAN, : NO.
ESQUIRE, Administrator: 2:13-CV-3145-CDJ
of the ESTATE OF :
ABRAHAM STRIMBER, :
deceased, and :
BRACHA STRIMBER :
:
v. :
:
STEVEN FISHER, M.D., :
et al. :

- - -
February 24, 2014
- - -

Oral deposition of STEVEN
FISHER, M.D., taken pursuant to notice,
was held at Abington Memorial Hospital,
1200 Old York Road, Abington,
Pennsylvania 19001, beginning at 9:14
a.m., on the above date, before Holli
Goldman, a Court Reporter and Notary
Public in and for the Commonwealth of
Pennsylvania.

- - -
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<p style="text-align: right;">Page 154</p> <p>1 migration --</p> <p>2 A. I believe that's an actual</p> <p>3 time.</p> <p>4 Q. Okay. So around 14:09, you</p> <p>5 entered into the computer the patient's</p> <p>6 final primary diagnosis, correct?</p> <p>7 THE WITNESS: Please forgive</p> <p>8 me.</p> <p>9 MR. CAMHI: Do you need to</p> <p>10 get it?</p> <p>11 We can go off if you do.</p> <p>12 THE WITNESS: No. I don't</p> <p>13 need to get it.</p> <p>14 - - -</p> <p>15 (Whereupon, a discussion was</p> <p>16 held off the record.)</p> <p>17 - - -</p> <p>18 MR. AUSSPRUNG: I'm going to</p> <p>19 ask a fresh question.</p> <p>20 MR. CAMHI: New question.</p> <p>21 Here we go.</p> <p>22 BY MR. AUSSPRUNG:</p> <p>23 Q. Am I correct that at</p> <p>24 approximately 14:09, you entered into the</p>	<p style="text-align: right;">Page 156</p> <p>1 taking care of the patient said that the</p> <p>2 patient denies chest pain.</p> <p>3 Q. But it's written "chest</p> <p>4 pain" in multiple spots on the triage and</p> <p>5 nursing assessment, right?</p> <p>6 A. The lack of chest pain is</p> <p>7 documented on several more important</p> <p>8 spots on the chart.</p> <p>9 Q. So both chest pain and a</p> <p>10 lack of chest pain are documented in the</p> <p>11 medical record, correct?</p> <p>12 A. Right. I -- correct.</p> <p>13 Q. Why?</p> <p>14 A. I can't speculate as to, you</p> <p>15 know, what someone else heard or was</p> <p>16 thinking at the triage window.</p> <p>17 Q. Was this patient's</p> <p>18 evaluation partly based upon Abington</p> <p>19 Memorial Hospital's chest pain protocol?</p> <p>20 A. The patient didn't have</p> <p>21 chest pain.</p> <p>22 Q. But the patient got a</p> <p>23 reflexive EKG, correct?</p> <p>24 A. So you're surmising that</p>
<p style="text-align: right;">Page 155</p> <p>1 medical record your final primary</p> <p>2 diagnosis for the patient in the</p> <p>3 emergency department?</p> <p>4 A. Well, I don't consider chest</p> <p>5 pain or epigastric pain to be a</p> <p>6 diagnosis.</p> <p>7 Q. Who entered the words "chest</p> <p>8 pain" there under final primary</p> <p>9 diagnosis?</p> <p>10 A. I did.</p> <p>11 Q. Okay. Why did you enter</p> <p>12 chest pain?</p> <p>13 A. Well, I think my primary</p> <p>14 concern at that point was making sure</p> <p>15 that there was an indication for the</p> <p>16 patient to get further telemetry.</p> <p>17 Q. I thought you told me the</p> <p>18 patient never complained to you of chest</p> <p>19 pain.</p> <p>20 A. He did not.</p> <p>21 Q. But you were aware that the</p> <p>22 patient had complained to the nurse of</p> <p>23 chest pain, correct?</p> <p>24 A. Well, the primary nurse</p>	<p style="text-align: right;">Page 157</p> <p>1 EKGs are limited solely to people that</p> <p>2 have chest pain.</p> <p>3 Q. Do you all patients with</p> <p>4 abdominal pain in Abington Memorial</p> <p>5 emergency department get an EKG?</p> <p>6 A. Any patient that's 61 that</p> <p>7 has abdominal pain and is sweaty will get</p> <p>8 an EKG.</p> <p>9 Q. Is that a standing order</p> <p>10 that the nurses can do without a</p> <p>11 physician intervention?</p> <p>12 A. Well, it obviously is,</p> <p>13 because it happened. It was the first</p> <p>14 thing that happened.</p> <p>15 Q. Well, I know it happened,</p> <p>16 but that doesn't mean there was an order</p> <p>17 for it.</p> <p>18 A. Right. But the EKG occurred</p> <p>19 prior to my interactions with the</p> <p>20 patient.</p> <p>21 Q. Does Abington Memorial</p> <p>22 Hospital emergency department have</p> <p>23 standing orders that nurses can follow</p> <p>24 without getting a physician's approval?</p>

<p style="text-align: right;">Page 186</p> <p>1 Q. And you're very concerned 2 that they get the best treatment they 3 can?</p> <p>4 MR. AUSSPRUNG: Objection. 5 Relevance.</p> <p>6 THE WITNESS: Unequivocally. 7 BY MR. SHUSTED:</p> <p>8 Q. Okay. And you're not really 9 concerned about billing entries whatever; 10 you just want to make sure that they get 11 the best treatment and you don't throw 12 somebody out on the street; is that 13 right?</p> <p>14 A. That's, I think, established 15 by our patients' customary evaluations of 16 our service.</p> <p>17 Q. And as a matter of fact, 18 you're now the chairman of the department 19 of emergency medicine; is that right?</p> <p>20 A. That is correct.</p> <p>21 Q. So for this particular 22 patient, Mr. Strimber, you wanted to have 23 him have further workup on a telemetry 24 unit; is that fair?</p>	<p style="text-align: right;">Page 188</p> <p>1 states chest pain in two different 2 locations.</p> <p>3 Do you see that by the 4 nursing staff?</p> <p>5 A. I do.</p> <p>6 Q. All right. Underneath that 7 second place where it says "Complaint: 8 Chest pain," is there an assessment in 9 there?</p> <p>10 A. There is.</p> <p>11 Q. All right. Now, is there an 12 assessment of chest pain in there?</p> <p>13 A. There is, that the patient 14 specifically denies it.</p> <p>15 Q. Is that a quote where it 16 says "Patient denies chest pain"?</p> <p>17 MR. CAMHI: You mean, does 18 it exactly say "Patient denies 19 chest pain"?</p> <p>20 BY MR. SHUSTED:</p> <p>21 Q. Are the words, quote, 22 Patient denies chest pain, close quote, 23 in the chart?</p> <p>24 A. They are, under the nursing</p>
<p style="text-align: right;">Page 187</p> <p>1 A. Yes.</p> <p>2 Q. And the reason why you would 3 do it on a telemetry unit, so there could 4 be continuous type of monitoring of his 5 vital signs; is that correct?</p> <p>6 A. We needed more information 7 regarding the patient.</p> <p>8 Q. And is that the reason why 9 "chest pain" as the final diagnosis 10 appears on the chart where you wrote it 11 in there?</p> <p>12 A. I think that's reasonable to 13 conclude.</p> <p>14 Q. Okay. So let's go back in 15 time to when Mr. Strimber first presented 16 to the emergency department, because I 17 have entries here, some of which deny 18 chest pain, some which say there's chest 19 pain there, and I just want to make sure 20 that we have an understanding as to what 21 that means.</p> <p>22 So I'm looking at page 1 of 23 12, and Dr. Aussprung questioned you 24 about that and noted that the complaint</p>	<p style="text-align: right;">Page 189</p> <p>1 assessment.</p> <p>2 Q. Okay. How did that affect 3 your assessment of the patient?</p> <p>4 A. Well, it's part of the 5 overall assessment. However, I place the 6 majority of my practice based upon, you 7 know, what I directly hear from the 8 patient and what I glean from them by 9 their history and physical examination.</p> <p>10 Q. Okay. And on page 1 of 12, 11 your history of present illness is in 12 there; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Did you record a history of 15 chest pain?</p> <p>16 A. I did not.</p> <p>17 Q. Would you have asked the 18 patient if he had chest pain?</p> <p>19 A. Yes.</p> <p>20 Q. And if that patient had told 21 you he had chest pain, would that have 22 been in your HPI?</p> <p>23 A. Yes.</p> <p>24 Q. And on page 2 of 12, there's</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARY B. FREEDMAN, :
ESQUIRE, Administrator : NO.
of the ESTATE OF : 2:13-cv-3145-CDJ
ABRAHAM STRIMBER, :
deceased :
and :
BRACHA STRIMBER, :

Plaintiffs, :

v. :

STEVEN FISHER, M.D., :
et al., :

Defendants. :

Tuesday, March 18, 2014

Videotape deposition of
MARGO E. TURNER, M.D., taken pursuant to
notice, was held at the law offices of
Christie, Pabarue & Young, 1880 JFK
Boulevard, 10th Floor, Philadelphia,
Pennsylvania, commencing at 10:40 a.m.,
on the above date, before Amy M. Murphy,
a Professional Court Reporter and Notary
Public there being present.

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1 had eaten in the hours prior to that,
 2 what evaluation had been done in the ER
 3 to evaluate those symptoms and what the
 4 reason for admission would be.
 5 Q. Did Dr. Fisher, in that
 6 initial conversation, mention to you that
 7 Mr. Strimber had an artificial heart
 8 valve?
 9 A. He did.
 10 Q. Did he mention -- did Dr.
 11 Fisher mention to you anything about pain
 12 in the chest?
 13 A. He did not.
 14 Q. Did Dr. Fisher mention to
 15 you anything about pain that went through
 16 to the patient's back?
 17 A. We talked about his
 18 abdominal pain, nausea, vomiting, and
 19 diarrhea. That's what I recall.
 20 Q. Do you have any recollection
 21 of how the abdominal pain was described
 22 to you?
 23 A. I do not.
 24 Q. So you don't know whether it

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1 was described as going through to the
 2 back or not?
 3 A. I don't.
 4 Q. Did you discuss Mr.
 5 Strimber's EKG in that initial
 6 conversation?
 7 A. Yes.
 8 Q. So it had been done by then?
 9 A. Yes.
 10 Q. Had Mr. Strimber's -- did
 11 you discuss Mr. Strimber's CAT scan
 12 results?
 13 A. We did.
 14 Q. So you believe the CAT scan
 15 was completed before you first came to
 16 the emergency department?
 17 A. Yes.
 18 Q. That helps give us a little
 19 bit of a timeline.
 20 It looks like the CAT scan
 21 report is at least timed around 1:30 or
 22 so.
 23 Anything else about that
 24 conversation with Dr. Fisher that you

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1 remember?
 2 A. No.
 3 Q. Was the next thing you did
 4 go and see the patient?
 5 A. Yes.
 6 Q. Where was the patient
 7 located?
 8 A. In one of the holding areas,
 9 one of the rooms in the ER.
 10 Q. Was it a room?
 11 A. They're like partitioned
 12 cubicles.
 13 Q. And what do you recall from
 14 that initial interaction with Abraham
 15 Strimber?
 16 A. I remember Mr. Strimber was
 17 sitting there. I interviewed Mr.
 18 Strimber initially to just evaluate what
 19 symptoms presented him to the hospital
 20 for admission. I conducted a physical
 21 examination. I left, reviewed the data
 22 then that I had, and I returned back to
 23 him to describe to him the plan of action
 24 of what was going to happen subsequent to

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1 the admission.
 2 Q. One of the things you did
 3 was you took -- you did a history and
 4 physical?
 5 A. That's correct.
 6 Q. You did it in the emergency
 7 department?
 8 A. Yes.
 9 Q. So as part of that history,
 10 you, again, confirmed that he had an
 11 artificial heart valve?
 12 A. Yes.
 13 Q. And as part of the history,
 14 did you get a description of his pain?
 15 A. Yes.
 16 Q. And what do you recall --
 17 and we'll look at the note in a minute,
 18 but what do you recall of that
 19 description?
 20 A. I remember there was
 21 abdominal pain, feeling like something
 22 exploded in his abdomen and just went up
 23 to the top of his head, and that he had
 24 eaten a series of things that are listed

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1 in the medical record earlier that day.
 2 He had one episode of diarrhea earlier
 3 and had an episode of vomiting in the ER.
 4 When I saw him, the abdominal pain had
 5 subsided.
 6 Q. So, the abdominal pain was
 7 no longer present when you saw him?
 8 A. That's correct.
 9 Q. You said something in his
 10 abdomen that went up, and I think you
 11 just said to the top of his head?
 12 A. He -- in the medical record,
 13 my description in the history of present
 14 illness will be a description of how he
 15 described that abdominal pain to me. If
 16 we can refer to that, the details of it,
 17 I'd be more clear about it.
 18 Q. Did you understand that his
 19 pain was limited to his abdomen or that
 20 it went up through his chest to his head?
 21 A. My understanding was that he
 22 felt something like -- I think he
 23 described it as a vibrating sensation in
 24 his abdomen. Again, if I could refer to

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1 that I could tell you exactly. What I
 2 wrote in that history of present illness
 3 will reflect what his words were which is
 4 then how I interpreted those things.
 5 Q. I'm just trying to figure
 6 out what you recall from your memory.
 7 A. I understand.
 8 Q. All right. Do you remember
 9 anything else in the history that he told
 10 you?
 11 A. I noted that there had been
 12 a complaint of chest pain given to the
 13 triage nurse. So, I asked if he was
 14 experiencing chest pain at the time that
 15 I saw him.
 16 Q. And was he?
 17 A. He was not.
 18 Q. And in fact, he wasn't even
 19 experiencing abdominal pain when you saw
 20 him?
 21 A. That's correct.
 22 Q. Had he received any
 23 analgesics in the emergency department
 24 before you saw him?

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1 A. I believe he had received
 2 morphine before I saw him.
 3 Q. What do you remember of your
 4 physical examination, if anything?
 5 A. I remember my physical
 6 examination to reveal to be within normal
 7 limits and not to reveal any
 8 abnormalities on the examination.
 9 Q. Did you palpate his abdomen?
 10 A. I did.
 11 Q. Did you specifically feel
 12 for aortic pulsations?
 13 A. I did.
 14 Q. Did you detect them?
 15 A. I did not.
 16 Q. Are you aware that there was
 17 a note in the emergency department record
 18 that they found he did have unusual
 19 aortic pulsations?
 20 A. I saw that note.
 21 Q. What did you understand that
 22 to mean?
 23 A. I thought that that was
 24 probably directing attention to whether

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1 there was an aneurism present.
 2 Q. But on your exam you did not
 3 have that same finding?
 4 A. I did not.
 5 MR. AUSSPRUNG: I'm going to
 6 mark as Exhibit-4 a big packet of
 7 papers, I think it's 12 pages
 8 long, which is the emergency
 9 department record, because I
 10 believe Dr. Turner has some orders
 11 and things in it.
 12 THE WITNESS: Yes.
 13 * * *
 14 (Whereupon, Exhibit Turner-4
 15 was marked for identification.)
 16 * * *
 17 BY MR. AUSSPRUNG:
 18 Q. Now, Dr. Turner, the first
 19 place -- which might not be totally
 20 accurate -- that I saw anything was on
 21 the third page of this document under the
 22 orders.
 23 A. Yes.
 24 Q. I want to start in the

COPY

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARY B. FREEDMAN, :
ESQUIRE, Administrator :
of the ESTATE OF : NO.
ABRAHAM STRIMBER, : 2:13-cv-3145-CDJ
deceased :
and :
BRACHA STRIMBER, :
Plaintiffs, :
v. :
STEVEN FISHER, M.D., :
et al., :
Defendants. :

Friday, March 28, 2014

Videotape deposition of
MANOJ R. MUTTREJA, M.D., taken pursuant
to notice, was held at the law offices of
German, Gallagher & Murtagh, The
Bellevue, 200 S. Broad Street, 5th Floor,
Philadelphia, Pennsylvania, commencing at
10:50 a.m., on the above date, before Amy
M. Murphy, a Professional Court Reporter
and Notary Public there being present.

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1 statement that was made by him at
2 his deposition in another case; is
3 that the question?

4 BY MR. AUSSPRUNG:

5 Q. Do you agree that a physical
6 exam cannot determine whether or not
7 somebody is having chest pain?

8 A. Yes.

9 Q. Do you agree that chest pain
10 is subjective information?

11 A. Yes.

12 Q. So, the patient presented
13 with chest pain; correct?

14 A. The initial triage from the
15 ER said chest pain.

16 Q. Do you have any reason to
17 believe that the patient did not present
18 with chest pain?

19 A. In every assessment that was
20 made after that the patient denied chest
21 pain. And the assessment that was made
22 by nursing right after that said he did
23 not have chest pain. And when I spoke
24 with him, he did not describe any chest

1 pain to me.

2 Q. Thank you, but that wasn't
3 what my question was.

4 MR. AUSSPRUNG: Can you read
5 back my question?

6 - - -

7 (Whereupon, the pertinent
8 portion of the record was read.)

9 - - -

10 BY MR. AUSSPRUNG:

11 Q. My question was that the
12 patient did not present with chest pain.
13 Do you have any reason to believe that?

14 MR. SHUSTED: Objection. He
15 answered your question but you can
16 answer that question that he just
17 posed to you.

18 THE WITNESS: The history
19 that was listed in the chart did
20 not mention any chest pain that he
21 had.

22 BY MR. AUSSPRUNG:

23 Q. What was the final diagnosis
24 of the emergency department; do you know?

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1 A. Chest pain.

2 Q. Do you think that diagnosis
3 was incorrect?

4 A. I can't comment on whether
5 that diagnosis was correct or incorrect.
6 I'm just commenting on what the objective
7 information was that I reviewed.

8 Q. Did you think that the
9 patient did not need to complete his
10 rule-out for myocardial infarction?

11 A. I did not feel that any
12 change needed to be made in the plans by
13 the primary team of ruling him out for a
14 myocardial infarction.

15 Q. So, you agreed that
16 additional cardiac enzymes were necessary
17 to rule out a myocardial infarction;
18 correct?

19 A. Yes.

20 Q. So -- and the reason that
21 myocardial infarction was being ruled out
22 was why?

23 A. He did have a cardiac
24 history and did present with a multitude

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1 lists the patient's diagnoses at the
2 hospital at the end, the end of the
3 admission; right?

4 A. Okay.

5 Q. And what does it list as his
6 admitting diagnosis?

7 A. Unspecified chest pain.

8 Q. Do you disagree with that
9 diagnosis?

10 MR. SHUSTED: Objection.

11 We've been over this quite a
12 number of times. You can answer
13 the question.

14 THE WITNESS: There were
15 many different symptoms that he
16 had when he was admitted. He
17 denied chest pain to the ER doctor
18 and to myself and to the other
19 physicians.

20 BY MR. AUSSPRUNG:

21 Q. That wasn't my question
22 though.

23 MR. CAMHI: And to others.

24 THE WITNESS: And to others.